

HOUSE BILL No. 1284

DIGEST OF INTRODUCED BILL

Citations Affected: IC 27-16.

Synopsis: Discount medical program organizations. Provides for licensure of a discount medical program organization. Specifies requirements for licensure.

Effective: July 1, 2005.

Frizzell

January 11, 2005, read first time and referred to Committee on Insurance.

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Introduced

First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

HOUSE BILL No. 1284

A BILL FOR AN ACT to amend the Indiana Code concerning insurance.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 27-16 IS ADDED TO THE INDIANA CODE AS
2 A **NEW** ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1,
3 2005]:
4 **ARTICLE 16. DISCOUNT MEDICAL PROGRAM**
5 **ORGANIZATIONS**
6 **Chapter 1. Definitions**
7 **Sec. 1. The definitions in this chapter apply throughout this**
8 **article.**
9 **Sec. 2. "Commissioner" refers to the commissioner appointed**
10 **under IC 27-1-1-2.**
11 **Sec. 3. "Department" refers to the department of insurance**
12 **created by IC 27-1-1-1.**
13 **Sec. 4. "Discount medical program" means a program through**
14 **which a discount medical program organization arranges for and**
15 **provides access to discounted medical services for members. The**
16 **term does not include a policy or contract regulated under this**
17 **title.**

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1 **Sec. 5. "Discount medical program organization" means a**
 2 **person that:**

- 3 (1) negotiates and enters into provider agreements; and
 4 (2) in exchange for consideration, provides members with a
 5 right of access to the discounted prices available under the
 6 provider agreements entered into under subdivision (1).

7 **Sec. 6. "Marketer" means a person that markets, promotes,**
 8 **sells, or distributes a discount medical program. The term includes**
 9 **a person that markets or distributes a discount medical program**
 10 **under the person's own name, but does not operate a discount**
 11 **medical program.**

12 **Sec. 7. (a) "Medical service" means care, a service, or treatment**
 13 **related to:**

- 14 (1) an illness or a dysfunction of; or
 15 (2) injury to;

16 **the human body.**

17 **(b) The term includes physician care, inpatient care, hospital**
 18 **services, surgical services, emergency services, ambulance services,**
 19 **dental care services, vision care services, mental health services,**
 20 **substance abuse services, chiropractic services, podiatric care**
 21 **services, laboratory services, and medical equipment and supplies.**

22 **(c) The term does not include pharmaceutical supplies or**
 23 **prescriptions.**

24 **Sec. 8. "Member" means a person who pays consideration for**
 25 **the right to participate in a discount medical program.**

26 **Sec. 9. "Person" means an individual or a business entity.**

27 **Sec. 10. "Program provider" means a provider that has,**
 28 **individually or through a provider network, entered into a**
 29 **provider agreement with a discount medical program organization.**

30 **Sec. 11. "Provider" means a person that is licensed under**
 31 **Indiana law to provide medical services.**

32 **Sec. 12. "Provider agreement" means a written agreement**
 33 **between a discount medical program organization and a:**

- 34 (1) provider; or
 35 (2) provider network;

36 **for the provider or providers that belong to the provider network**
 37 **to render medical services to members at discounted rates.**

38 **Sec. 13. "Provider network" means a group of two (2) or more**
 39 **providers that is represented by a person for purposes of**
 40 **negotiations with third parties.**

41 **Chapter 2. Licensure of Discount Medical Program**
 42 **Organizations**

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1 **Sec. 1. A discount medical program organization shall not**
 2 **transact business in Indiana unless the discount medical program**
 3 **organization is:**

- 4 (1) a corporation incorporated or authorized to transact
 5 business in Indiana; and
 6 (2) licensed under this chapter.

7 **Sec. 2. (a) An application for a license to operate as a discount**
 8 **medical program organization must be filed with the department**
 9 **on a form prescribed by the department.**

10 **(b) An application filed under subsection (a) must be:**

11 (1) sworn to by an officer or authorized representative of the
 12 applicant; and

13 (2) accompanied by the following:

14 (A) A copy of the applicant's articles of incorporation,
 15 including all amendments.

16 (B) A copy of the corporation's bylaws.

17 (C) A list of the names, addresses, official positions, and
 18 biographical information of each individual responsible for
 19 conducting the applicant's affairs, including:

20 (i) each member of the board of directors, board of
 21 trustees, executive committee, or other governing board
 22 or committee;

23 (ii) each officer; and

24 (iii) each person that owns or has the right to acquire ten
 25 percent (10%) or more of the voting securities of the
 26 applicant.

27 The list must fully disclose the extent and nature of any
 28 contract or arrangement between the applicant and any
 29 individual who is responsible for conducting the
 30 applicant's affairs, including any possible conflicts of
 31 interest.

32 (D) A statement generally describing the applicant, the
 33 applicant's facilities and personnel, and the medical
 34 services to be offered.

35 (E) A copy of the form of all provider agreements.

36 (F) A copy of the form of any contract or arrangement
 37 between the applicant and any person listed in clause (C).

38 (G) A copy of the form of any contract between the
 39 applicant and any person for the performance on the
 40 applicant's behalf of any function, including marketing,
 41 administration, enrollment, investment management, and
 42 subcontracting for the provision of medical services to

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members.

(H) A description of the proposed method of marketing.

(I) A description of member complaint procedures.

(J) Other information the commissioner reasonably requires to make the determinations required under this chapter.

Sec. 3. (a) The fee for issuance of a license under this chapter is five hundred dollars (\$500).

(b) A license issued or renewed under this chapter expires one (1) year from the date of issuance or renewal.

(c) The fee for renewal of a license under this chapter is two hundred fifty dollars (\$250).

(d) The department shall renew a license issued under this chapter if the:

(1) fee specified under subsection (c) is paid; and

(2) commissioner is satisfied that the discount medical program organization is in compliance with this article.

Sec. 4. This article does not require a provider that provides discounted prices for medical services to the provider's patients to be licensed under this chapter.

Chapter 3. Examinations and Investigations

Sec. 1. (a) The department may examine or investigate the business and affairs of a discount medical program organization.

(b) The department may:

(1) order a discount medical program organization or applicant for a license under IC 27-16-2 to produce records, books, files, advertising and solicitation materials, and other information; and

(2) take statements under oath to determine whether the discount medical program organization or applicant is in violation of the law or is acting contrary to the public interest.

(c) A discount medical program organization or applicant that is examined or investigated under this chapter shall pay any expense incurred in conducting the examination or investigation.

Sec. 2. A discount medical program organization's failure to:

(1) comply with an action of the department under section 1 of this chapter; or

(2) pay expenses incurred under section 1 of this chapter; is grounds for denial or revocation of a license issued under IC 27-16-2.

Chapter 4. Prohibited Activities

Sec. 1. A discount medical program organization may not do the

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following:

(1) Use in the discount medical program organization's advertisements, marketing materials, brochures, or discount cards the:

(A) term "insurance" except as otherwise provided in this article; and

(B) terms "health plan", "coverage", "copay", "copayment", "preexisting condition", "guaranteed issue", "premium", or another term that could reasonably mislead a person to believe that a discount medical program is health insurance.

(2) Implement restrictions on member access to program providers, including waiting periods and notification periods.

(3) Pay a provider a fee for medical services.

(4) Collect or accept money from a member for payment to a provider for medical services furnished to the member unless the discount medical program organization is an administrator licensed under IC 27-1-25.

Chapter 5. Disclosures

Sec. 1. (a) A discount medical program organization shall make to a prospective member, and print on the first page of advertisements, marketing materials, and brochures relating to a discount medical program, the following written disclosures:

(1) That the discount medical program is not health insurance.

(2) That the discount medical program provides discounts for medical services rendered by certain providers.

(3) That the discount medical program does not make payments directly to providers.

(4) That the member:

(A) is obligated to pay for all medical services; and

(B) will receive a discount from a provider that has entered into a contract with the discount medical program organization.

(5) The corporate name and the locations of the discount medical plan organization.

(b) The disclosures made under subsection (a) must be printed in:

(1) at least 12 point type; or

(2) if the largest type on the page is larger than 12 point type, a size not smaller than the largest type on the page.

Sec. 2. (a) A person that wishes to be a member of a discount

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1 medical program shall enter into a written agreement with the
2 discount medical program organization.

3 (b) A written agreement entered into under subsection (a) must:

4 (1) specify the member's benefits under the discount medical
5 program; and

6 (2) comply with the disclosure requirements specified under
7 section 1 of this chapter.

8 Chapter 6. Provider Agreements

9 Sec. 1. A provider that renders medical services to a member
10 under a discount medical program shall render the medical
11 services under a provider agreement.

12 Sec. 2. A provider agreement must specify the following:

13 (1) A list of the medical services and products to be provided
14 at a discount.

15 (2) That the provider will not charge a member more than the
16 discounted rate.

17 (3) If the provider agreement is between a discount medical
18 program organization and a provider network, that the
19 provider network shall have written agreements with the
20 provider network's providers that:

21 (A) authorize the provider network to contract with the
22 discount medical program organization on behalf of the
23 provider; and

24 (B) specify that the provider network's providers will
25 comply with subdivisions (1) and (2).

26 (4) That the discount medical program organization will
27 maintain a copy of each active provider agreement.

28 Chapter 7. Form Filings

29 Sec. 1. Before using any form, including the form of a written
30 agreement required under IC 27-16-5-2, a discount medical
31 program organization shall:

32 (1) file the form with; and

33 (2) obtain approval for use of the form from;
34 the commissioner.

35 Sec. 2. (a) The commissioner shall:

36 (1) notify a discount medical program organization of the
37 commissioner's approval or disapproval of a filing under
38 section 1 of this chapter; and

39 (2) specify in the notice the reason for a disapproval.

40 (b) A discount medical program organization that receives a
41 notice of disapproval under subsection (a) may, not more than
42 twenty-one (21) days after the date the discount medical program

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organization receives the notice, request a hearing under IC 4-21.5.

Chapter 8. Annual Reports

Sec. 1. A discount medical program organization shall file an annual report with the department not later than three (3) months after the end of the discount medical program organization's fiscal year.

Sec. 2. A report filed under section 1 of this chapter must be on a form prescribed by the commissioner and must include the following:

(1) A:

(A) list of the names and residence addresses of each individual responsible for conducting the discount medical program organization's affairs, including:

(i) each member of the board of directors, board of trustees, executive committee, or other governing board or committee; and

(ii) each officer; and

(B) disclosure of the extent and nature of any contract or arrangement between each individual listed under clause

(A) and the discount medical program organization, including any possible conflicts of interest.

(2) The number of members of the discount medical program organization's discount medical program.

Sec. 3. (a) The department shall notify a discount medical program organization that is not in compliance with this chapter.

(b) A discount medical program organization that fails to file an annual report as required under this chapter shall pay to the department for deposit in the department of insurance fund established by IC 27-1-3-28:

(1) two hundred fifty dollars (\$250) per day for the first ten (10) days of noncompliance; and

(2) five hundred dollars (\$500) per day for the eleventh day and each subsequent day of noncompliance.

(c) Upon receiving notice under subsection (a), a discount medical program organization's license is suspended until the commissioner determines that the discount medical program organization is in compliance with this chapter.

Chapter 9. Minimum Capital Requirements

Sec. 1. A discount medical program organization shall at all times maintain a net worth of at least fifty thousand dollars (\$50,000).

Sec. 2. The department may not issue a license under this article

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1 unless the discount medical program organization has a net worth
2 of at least fifty thousand dollars (\$50,000).

3 **Chapter 10. Suspension or Revocation of License**

4 **Sec. 1. The department may suspend or revoke a discount**
5 **medical program organization's license or order compliance if the**
6 **department finds any of the following:**

7 (1) The discount medical program organization is not in
8 compliance with this article.

9 (2) The discount medical program organization is not in
10 compliance with the net worth requirement of IC 27-16-9.

11 (3) The discount medical program organization has:

12 (A) advertised, marketed, or attempted to market the
13 discount medical program organization's services in such
14 a manner as to misrepresent the discount medical program
15 organization's services or capacity for service; or

16 (B) engaged in deceptive, misleading, or unfair practices
17 with respect to advertising or marketing.

18 (4) The discount medical program organization is not
19 fulfilling the discount medical program organization's
20 obligations as a medical discount medical program
21 organization.

22 (5) The continued operation of the discount medical program
23 organization would be hazardous to the discount medical
24 program organization's members.

25 **Sec. 2. If the department has cause to believe that grounds for**
26 **the suspension or revocation of a license under this article exist, the**
27 **department shall:**

28 (1) notify the discount medical program organization in
29 writing specifically stating the grounds for suspension or
30 revocation; and

31 (2) pursue a hearing under IC 4-21.5.

32 **Sec. 3. Upon the effective date of the surrender or revocation of**
33 **a discount medical program organization's license, the discount**
34 **medical program organization shall wind up the discount medical**
35 **program organization's affairs transacted under the license. The**
36 **discount medical program organization may not engage in any**
37 **further advertising, solicitation, collection of consideration, or**
38 **renewal of agreements.**

39 **Sec. 4. (a) If the department suspends the license of a discount**
40 **medical program organization, the department must specify in the**
41 **order of suspension:**

42 (1) the period during which the suspension is in effect; and

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(2) any conditions that must be met by the discount medical program organization before the license is reinstated.

(b) An order of suspension may be rescinded or modified by further order of the department before the expiration of the suspension period specified under subsection (a).

(c) The department may not reinstate a suspended license unless reinstatement is requested by the discount medical program organization. However, the department may not grant reinstatement if the department determines that the circumstances for which the suspension occurred still exist or are likely to recur.

Sec. 5. On the date that a discount medical program organization receives notice from the department that the discount medical program organization's license is suspended, the discount medical program organization shall cease to enroll new members.

Chapter 11. Notice of Change of Name or Address

Sec. 1. A discount medical program organization shall notify the department of a change of the discount medical program organization's name, address, principal business address, or mailing address at least thirty (30) days before the change occurs.

Chapter 12. Marketing of Discount Medical Programs

Sec. 1. A discount medical program organization shall approve in writing all advertisements, marketing materials, brochures, and discount cards before the advertisements, marketing materials, brochures, and discount cards are used by marketers.

Sec. 2. A discount medical program organization:

- (1) shall enter into a written agreement with a marketer before the marketer may begin marketing, promoting, selling, or distributing the discount medical program; and
- (2) is responsible and financially liable for any acts of the discount medical program organization's marketers that do not comply with this article.

Chapter 13. Rulemaking

Sec. 1. The department may adopt rules to implement this article, including rules concerning the following:

- (1) Licensing of discount medical program organizations.
- (2) Standards for evaluation of forms, advertisements, marketing materials, brochures, and discount cards.
- (3) Collection of data.
- (4) Disclosures members.

Chapter 14. Violations

Sec. 1. A person who knowingly, recklessly, or intentionally violates this article commits a Class B misdemeanor.

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1 **Sec. 2. The department may seek temporary and permanent**
 2 **injunctive relief for the following:**

3 **(1) A discount medical program is operated by a person that**
 4 **is not licensed under this article.**

5 **(2) A discount medical program organization or another**
 6 **person has engaged in any activity prohibited by this article**
 7 **or a rule adopted under this article.**

8 **Sec. 3. (a) A person that is damaged by the acts of a person that**
 9 **has violated this article may bring a civil action against the person**
 10 **committing the violation in the court of the county where the**
 11 **alleged violator resides, has a principal place of business, or where**
 12 **the alleged violation occurred.**

13 **(b) If the person bringing an action under subsection (a)**
 14 **prevails, the court may order the defendant, in addition to**
 15 **damages, to pay all court costs and reasonable attorney's fees of**
 16 **the plaintiff.**

17 **Sec. 4. IC 27-4-5 applies to discount medical program**
 18 **organization that operates without a license under this article as if**
 19 **the discount medical program organization were an unauthorized**
 20 **insurer.**

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